

1 Music plays in background
2 Dial tone
3 Clicking sounds
4 Loud static
5 Telephone rings three times
6 UNKNOWN FEMALE: "The mailbox belonging to JOHN LEWIS is
7 full and cannot accept new messages at this time. To page
8 this person..."
9 Cellular telephone rings in background
10 "Press five now or please try again later. Pause
11 Your call back number is five-five. Please enter your
12 call back number then press pound."
13 Clicking sounds
14 "You entered nine-seven-two, seven-zero-one, five-
15 five-five-one. If this is correct, press one. Thank
16 you. This number will be sent to the pager.
17 Goodbye."
18 Dial tone
19 Clicking sounds
20 Telephone rings ten times
21 Clicking sounds
22 BILL FISHER: Talking into recorder Okay, I have a call
23 into the, uh, cell phone Loud static UI. It is
24 five ten on Tuesday the second. UI
25 LONG PAUSE - 16 minutes

**GOVERNMENT
EXHIBIT**

5730

3:07-CR-0289-M

1 Cellular telephone rings in background

2 BILL FISHER: Hello? Hello?

3 Pause

4 Telephone rings four times

5 KEVIN DEAN: "You've reached the voice mail of KEVIN DEAN.

6 I'm either away from my phone or out of the office.

7 Can you please leave a message and the number and I

8 will get back with you. Thank you."

9 Beep

10 FISHER: Uh, hey, KEVIN. It's, uh, BILL FISHER. You

11 just tried me. I'll, uh, try you on your cell. It's,

12 uh, eleven o'clock on, uh, Monday the ninth.

13 Pause

14 Telephone rings three times

15 DEAN: Hello?

16 FISHER: KEVIN?

17 DEAN: Yes.

18 FISHER: BILL FISHER.

19 DEAN: Hi, BILL. How you doing?

20 FISHER: Just fine. Now you just tried me, I tried you

21 back but, uh, you didn't answer so I tried you on the

22 cell.

23 DEAN: Yeah, I was in the kitchen on that office phone

24 so I could set up a conference call. Do you have

25 time?

1 FISHER: Yes.

2 DEAN: Okay. Um, let me, or do you want me to call you
3 on your cell or your office?

4 FISHER: No, call me on the office line. That's a
5 better connection here.

6 DEAN: Okay. Uh, we'll call you right back.

7 FISHER: Alrighty.

8 DEAN: Bye-bye.

9 FISHER: Bye.

10 Talking into recorder That was, uh, that was, uh,
11 KEVIN DEAN. I talked to him on his cell phone. He
12 put a call into me on the land line, uh, at eleven
13 o'clock. It's about three after eleven on the ninth.

14 Pause

15 FISHER: BILL FISHER.

16 DEAN: Hey, BILL.

17 FISHER: Hey, KEVIN. How are you?

18 DEAN: Uh, good. I have JOHN on the line. I'm sorry it
19 took me so long.

20 FISHER: No problem. I figured you were working out the
21 conferencing feature on your phone, so...

22 DEAN: Thank you. Hey, we're gonna have to hurry up and
23 make some money so I can do this voice-activated
24 Beeping sound UI.

25 FISHER: There you go.

1 JOHN LEWIS: Hi, BILL.
2 FISHER: JOHN, how are you?
3 LEWIS: Good. How are you doing?
4 FISHER: I'm good.
5 Beeping sound
6 Well, we seem alright on the docs here and obviously
7 I'm, uh, ready Beeping sound, ready economically
8 this afternoon. I think our only missing piece here
9 to wrapping up today is, uh, getting our confirming
10 call. Have you guys talked about that?
11 LEWIS: Go ahead, KEVIN. Beeping sound
12 DEAN: BILL? I, I talked to the person that was
13 supposed to be making the phone call.
14 FISHER: Right.
15 DEAN: Uh, and he's out of town today. You can check,
16 but, uh, he's not comfortable with calling, uh, what's
17 her name? SUZAN.
18 FISHER: Okay.
19 DEAN: Now he said that, uh, you can pick up the phone
20 or they can pick up the phone to make sure that it's,
21 uh, you know, ready to go. But he doesn't want to,
22 uh, confirm.
23 FISHER: Well, uh, the, you know, UI I told, uh,
24 JOHN the issue I have with that. Is it a question of
25 who calls, or is it a question of the confirmation

1 altogether?

2 DEAN: Uh, question of who's calling.

3 FISHER: Okay. So, if SUZAN were to call him, then he'd

4 respond to her call. He doesn't want to reach out and

5 make the call to her?

6 DEAN: Right.

7 FISHER: Okay, well let me, but you're saying he's not

8 there to take the call today anyway.

9 LEWIS: Right. I got a, and, I, I got a message from

10 him, a text message from him UI.

11 FISHER: Okay.

12 LEWIS: UI

13 FISHER: Okay. What, um, and the, he didn't want to

14 make, he didn't want to initiate the call.

15 LEWIS: Right.

16 FISHER: Alright, well, you know, again, I'm gonna need

17 a, Laughs you know, I do need a, a call here. I'm

18 not sure SUZAN has a problem with, uh, calling him, so

19 let me, let me check with her and see if she's alright

20 doing that. Do we need to push back to tomorrow

21 afternoon? Is he gonna be in in the morning for this

22 call?

23 DEAN: BILL?

24 FISHER: Yeah.

25 DEAN: The way I look at it is that I think we got

1 everything taken care of. Uh, that's up to her but
2 right now we need to go ahead on and get this thing
3 done. Uh...

4 FISHER: I hear you, guys. I need to, I need to get
5 this call whether he makes it or she makes it, uh, I
6 really need that here before I, uh, you know wrap up
7 with you guys, 'cause it's all about showing you guys
8 are the one pulling it across the finish line here,
9 frankly.

10 DEAN: UI

11 FISHER: And it's, and what I told JOHN, it's, it's not
12 your problem, it's previous bad experiences and, uh,
13 and that, that, that's the crux of it, so, um...

14 DEAN: BILL?

15 FISHER: Yeah.

16 DEAN: So you're saying that you have other people out
17 there working on it? Because I hear you, I heard you
18 say you want to make sure that we're pulling across
19 the finish line.

20 FISHER: Well, I mean, you have to realize I've worked
21 it in the normal course. I've been out there, I've
22 met with the neighbors...

23 DEAN: BILL?

24 FISHER: They've changed their position, I've gotten
25 them to support, you know, and I've done some things

1 here to...

2 DEAN: BILL?

3 FISHER: It used to be a super majority, now it's

4 just a majority.

5 DEAN: BILL?

6 FISHER: Yeah.

7 DEAN: Did it get passed last time?

8 FISHER: Well, it got postponed, but...

9 DEAN: Okay.

10 FISHER: Yeah.

11 DEAN: So it was, it was postponed because of us.

12 Alright?

13 FISHER: UI

14 DEAN: Now I, I don't want to hear this about, well, uh,

15 you're doing some other things, you got somebody else

16 pulling across the line. We're sitting here telling

17 you that this is a done deal.

18 FISHER: You know, KEVIN, I like you and I like JOHN and

19 I'm, you know, really looking forward to working with

20 you guys, but the reality is I really don't know

21 either one of you at all and the person I'd worked

22 with for a long time isn't really in the loop anymore.

23 And, uh, you know, I'm fine with that 'cause I think

24 it keeps the circle small here and that was RON

25 FERGUSON but, uh, you know, again, this is a new

1 relationship, so, um, really gonna need some kind of
2 confirmation here, um, we're just gonna have to figure
3 out what's the most comfortable way to do it with our
4 guys, so, uh, did you get a sense that, uh, they were
5 opposed to a call altogether or, again, just did,
6 didn't want to initiate the call?

7 DEAN: This is, they were opposed to it because we said
8 that we were gonna keep this in a tight circle.

9 FISHER: Right.

10 DEAN: And for me, I have a problem with it UI is
11 that, uh, you make a phone call prior to this
12 happening, that could, like you said, that could be
13 traced.

14 FISHER: Now the reality is this will be fairly common.
15 I mean, it's, would be unusual to go to a zoning case
16 a couple days ahead of time and not know you were set.
17 I mean, really, it just doesn't, you know it, that's
18 the way it works, um...

19 DEAN: UI

20 FISHER: It, that's not, it, that is not the least
21 bit uncommon, so...

22 DEAN: BILL, let me ask JOHN...

23 FISHER: Honestly never been down there on a case
24 that didn't know, at least what the council person's
25 take was, whether it was eight or four or any of the

1 other, uh, districts that I've done, uh, done
2 developments in, so...
3 DEAN: Is it okay for her to call him?
4 FISHER: I think so. I think so. Let's assume that UI...
5 LEWIS: UI in the normal course UI
6 FISHER: That's right, yeah, she'd wanna know here, but
7 that's kinda why I was trying to close the loop here
8 altogether. It also provided some, some back-up for
9 me, so, uh...
10 LEWIS: UI for us UI.
11 FISHER: Right. Well, I mean, you got a signed
12 agreement. Laughs So, I mean, there's very little
13 moving parts. The only issue on the agreement,
14 frankly, are the additional retainers. Everything
15 else is already carved in stone. The, uh, G-P
16 participation, the, uh, construction contracts. I
17 mean, frankly, that's ninety percent of the
18 compensation is already tacked down. Prior to that,
19 the other is really just getting your direct expense
20 covered, so...I'm not trying to be difficult. I just
21 tried to be clear up front that this is something that
22 we wanted to know before we, you know, we got to
23 Wednesday, that we would be set and the party we're
24 counting on is set. And I'm not looking for him to do
25 anything the least bit unusual. I, I just want to

1 make sure that it's done, so, um, so shall we tee up
2 for two tomorrow and then I'll get, uh, try to call
3 SUZAN and get her to call him in the morning?
4 DEAN: Call him. If that's what he wants to do, but I
5 just don't, I mean, if SUZAN wants to call him, she
6 can call.
7 FISHER: I mean, if it matters, I'll call. I just, you
8 know, again, the normal course would be for SUZAN to
9 call. That's the only reason I was suggesting her,
10 but I mean I, I, you know, I'm perfectly happy making
11 the call myself if the other party prefers that.
12 DEAN: Uh, I would say the other party doesn't want to
13 talk to you, BILL UI...
14 FISHER: Laughs Okay.
15 DEAN: UI
16 FISHER: Well, that's why I've always suggested SUZAN in
17 the loop here just 'cause it's the normal course.
18 DEAN: Right.
19 FISHER: She's the one that interfaces with their office,
20 etcetera, so... Let's shoot for that. Why don't you
21 call and, and, you know, or text message, whatever,
22 make sure that's okay and let's just re-up for two
23 tomorrow.
24 DEAN: Let me ask you a question. Why can't we sign our
25 deal with you, and you, uh, make that transaction

1 tomorrow?

2 FISHER: I don't mind signing up today as long as we

3 understand that it's not done here 'til I get my call

4 and I part with my, uh, check. I'm alright with that.

5 DEAN: Even in the paperwork that says that.

6 FISHER: Yeah, I don't mind doing the paperwork on that

7 basis.

8 DEAN: Well let's, can you meet at, um, I can meet JOHN,

9 three-thirty, four o'clock?

10 LEWIS: UI

11 FISHER: I mean, uh, frankly, I can just fax it over to

12 you guys if you just want, you know, I'm not sure we

13 have to get together face-to-face, um, except to

14 exchange checks here but, uh, it's up to you. If you

15 want to come, let's do it at three or three-thirty.

16 DEAN: Uh, it'd have to be four. I got a meeting at two

17 and I think it's at the airport so I probably Laughs

18 won't get out in time.

19 FISHER: Well then let's, let's say four o'clock.

20 DEAN: Okay.

21 FISHER: Alright, guys.

22 DEAN: UI

23 FISHER: And then you're gonna find out whether the

24 other's okay, and let me know.

25 LEWIS: Mm-hmm.

1 FISHER: Alright.
2 DEAN: Okay.
3 FISHER: Thanks, guys.
4 Callers hang up
5 Talking into recorder Alright, that was JOHN LEWIS
6 and KEVIN DEAN. It's eleven-thirty on the ninth UI.
7 END OF CALL
8 BILL FISHER: Yeah. STEVE, how are you?
9 END OF CALL
10 Dial tone
11 Clicking sounds
12 Telephone rings one time
13 Three high-pitched tones
14 BILL FISHER: Ugh.
15 UNKNOWN MALE: "We're sorry, you must first dial a..."
16 Dial tone
17 Clicking sounds
18 Telephone rings four times
19 UNKNOWN FEMALE: "Your call has been forwarded to an
20 automatic voice message system. Eight-one-seven, three-
21 zero-seven, three-four-eight-seven is not available. To
22 page this person, press five now."
23 Clicking sound
24 "Your call back number is five-five. Please enter
25 your call back number, then press pound. To..."

1 Clicking sounds

2 "You entered nine-seven-two. Thank you. This number

3 will be sent to the pager. You may hang up or to

4 leave a voice message, please wait for the tone."

5 (Beeping sound)

6 FISHER: Hey, KEVIN. It's, uh, BILL FISHER. It's just

7 a little after one o'clock on, uh, Monday the ninth.

8 Um, you and I and, uh, JOHN had conferenced here about

9 an hour ago. Um, you know, basically I painted myself

10 into the corner here. I had talked to, uh, JOHN and

11 you guys here for a while about getting this

12 confirmation call done over with SUZAN and, um, you

13 know, frankly I'm just not UI authorized over

14 here to sign anything until we get that done. Um, you

15 know, SALEEM wants closure here on the loop. We've,

16 again, bad experience with other folks here, just, we

17 felt trying to free-ride off of, uh, someone else's

18 activities. So, the bottom line is we're gonna need

19 to get this call done to SUZAN here before I sign

20 anything or part with any money. Now I'm ready to go,

21 so we can do this fifteen minutes after the call. I

22 had just forwarded to you and, uh, I'd, frankly, I

23 didn't do JOHN, but I'll do him as well, there's

24 exchanges going on with follow-up information from the

25 neighbors between SUZAN and DON's office, so, if we

1 can just get him to call her back and acknowledge
2 that, you know, we're good to go, then that meets my
3 requirement here and we can wrap this thing up. And,
4 you know, like I said, I promised everyone here that
5 we'd have, we'd get that confirmation here before I'd
6 sign anything and they're holding my feet to the fire,
7 so...And I don't see any way around and, frankly, I'm
8 not sure it's that big a deal. I think we're making
9 it, uh, a mountain out of a mole hill on your all's
10 side but, uh, that's where we are. I think really for
11 the construction contracts and everything involved
12 it's, uh, not too much to ask for this call to take
13 place, uh, uh, as part of us consummating this
14 transaction. Uh, give me a call, nine-seven-two,
15 seven-oh-one, five-five-five-one. Thanks.
16 Talking into recorder That was my call, left voice
17 message for KEVIN DEAN. It's one-fifteen on Monday
18 the ninth.
19 END OF CALL
20 Telephone rings in background
21 BILL FISHER: BILL FISHER.
22 JOHN LEWIS: BILL? JOHN LEWIS. Hold on one second. I
23 got KEVIN on the other line. UI
24 FISHER: Okay.
25 Pause

1 LEWIS: KEVIN?
2 KEVIN DEAN: Mm-hmm.
3 LEWIS: BILL?
4 FISHER: Yes.
5 DEAN: Hey, BILL.
6 LEWIS: UI
7 FISHER: Yeah. Did you get my message? I just tried
8 you.
9 DEAN: Yeah, but I thought we agreed that, uh, she would
10 call him and he would not be calling her.
11 FISHER: Well, I said I'd try and get that done here.
12 The problem is I painted myself in the corner with,
13 uh, everyone here. I told them that that, you know,
14 they would get their own confirmation from SUZAN.
15 And, uh, you know, I, I, I can't budge off of that.
16 And I...
17 DEAN: Okay, well that's not gonna happen then, BILL.
18 We...
19 FISHER: Okay.
20 DEAN: The deal, we're gonna have to just let it die.
21 Because, uh, that man is not gonna do that. He's
22 already said he wasn't gonna do it. Now she can call
23 his office if she wants to, but he's not gonna make
24 that phone call. And, to be honest with you, hell, I
25 wouldn't make it either.

1 FISHER: Well again, I, again, if this were out of the
2 ordinary I'd agree, but it's not.
3 DEAN: Okay. Okay.
4 FISHER: So...
5 DEAN: But you know what? You changed the deal several
6 times.
7 FISHER: KEVIN, I haven't done this, this has been, I've
8 had this out for weeks now and you cannot point the
9 finger at me.
10 DEAN: Okay.
11 FISHER: This call was at, was discussed at every
12 meeting.
13 DEAN: Okay.
14 FISHER: This is the only thing I get from somebody
15 else. I like you, I like JOHN, I don't know you guys
16 from ADAM.
17 DEAN: Okay...
18 FISHER: I don't, I...
19 DEAN: And I don't, you know what, and I don't know
20 you and I know you've changed, you've changed the
21 deal, you've changed the structure of the deal I don't
22 know how many times. And you came back and, uh, we've
23 honored that. Now, I told you that we could get this
24 done. We didn't ask for the money. We could've
25 signed the deal and then we'll get this, we'll get

1 SUZAN to call the office and make sure everything went
2 okay.

3 FISHER: That's the missing piece, is the call to SUZAN,
4 so I don't know what, why we're...

5 DEAN: Well, there's not gonna be a call to SUZAN.

6 SUZAN can make a phone call over there. If she
7 doesn't, then I'm tired of messing with it. Hey, it
8 was a good deal, we could've, we could've both made some
9 money on it, but, hey...

10 LEWIS: Hold on a second, guys.

11 DEAN: I'm not gonna do that.

12 FISHER: Talking to someone else Yeah.

13 LEWIS: SUZAN's office will not call BILL?

14 FISHER: No, I mean I've got a call into SUZAN. I just,
15 look at the last e-mail I sent you guys here. There
16 is information being exchanged with SUZAN in that
17 office as we speak. So, frankly, I just, you know,
18 you guys should have alerted this to me three or four
19 weeks ago that this was gonna be some big to-do about
20 who, who initiated the call. So, um...

21 LEWIS: UI Why is it important that he initiates the
22 call?

23 FISHER: Because I have told SUZAN to stay completely out
24 of it because you all are working it.

25 DEAN: Well that's not...

1 FISHER: And, and all I told her to do is I said, look,
2 SUZAN, you just need to sit on the sidelines, don't do
3 anything. Don't work this case, don't do anything
4 that you normally do. I'm working it, uh, politically
5 on the other side. You'll get a call and telling you
6 that we're in good stead coming up here for Wednesday.
7 Just forward information if you think that's
8 appropriate on, but other than that you, you need to
9 stay out of it.

10 DEAN: BILL, how long have you been working on this?

11 FISHER: How long has SUZAN been working on it?

12 DEAN: Yeah.

13 FISHER: Since November.

14 DEAN: And she hasn't gotten anything done?

15 FISHER: That's right.

16 DEAN: Okay. We had the deal done the last time, the
17 deal is done now. I'm telling you it's done. I
18 didn't ask you for your, for, uh, for those funds to
19 be transferred. I said, hey, since he's out of town
20 and if she can't get in touch with him, then just sign
21 the documents and we'll take care of the other
22 transaction later.

23 Pause

24 Nobody's asking you for your money.

25 FISHER: It's not, you know, KEVIN, you have to realize

1 there's the prospect of free riding in this.

2 DEAN: Right. And I'm not trying to free-ride nothing

3 because...

4 FISHER: Well, I mean, that, that's...

5 DEAN: Well, well...

6 FISHER: The only way I'll ev, that's the only way I

7 think of how do I eliminate that?

8 DEAN: Well, you know what? Well the way you eliminate

9 it is that I'm trying to make sure that my ass don't

10 get put in jail either, and yours don't either by, by

11 having a man call and say, hey, this is what I wanna

12 do.

13 FISHER: No, just, a-again, I don't, we're not looking

14 for anything out of the ordinary. Just, hey, look,

15 the case is coming up. I got the information you've

16 been forwarding to me here and we're good to go on

17 Wednesday. We're not talking about anything, uh, the

18 least we're certainly UI I wasn't proposing anything

19 extraordinary at all. But to have SUZAN jump back in

20 it now when I basically held her off here for, for

21 months, frankly, I think that's the red flag, so...I

22 know you're concerned and I'm concerned as well, so I

23 think we're both trying to do it in a way that

24 protects everyone Laughs and I think that's the

25 issue, is...

1 DEAN: Well, I think you were, I think you're the one
2 that said, hey, the circle needs to be tightened. So,
3 the circle by, by, by having that man call SUZAN, that
4 means that the circle is widened.

5 FISHER: Well, you're right UI the reality is SUZAN
6 isn't in the loop here. I proposed to JOHN, I don't know
7 if
8 you were on the call, have him call me. But that, that
9 went over like a lead balloon.

10 DEAN: Laughs That ain't gonna happen.

11 FISHER: Well, exactly. Laughs So, you know, what do
12 we, you know, we're, we're kind of at a rock and a
13 hard place here, uh, chicken and the egg, uh, thing
14 so...Well, take a look at what I just sent over to
15 y'all first and then, then call me back.

16 DEAN: Well, I'm not in my office. I told you I was
17 gonna be in a meeting.

18 FISHER: Well, that's fine.

19 DEAN: So...

20 FISHER: Well just, just, just look at it when you get
21 back. Uh, JOHN'll have it and he can probably fill
22 you in.

23 DEAN: Okay.

24 FISHER: And then take a look at it and then give me a
25 call.

1 DEAN: Okay.
2 FISHER: Alright.
3 Callers hang up
4 Talking into recorder Alright, that was a call to
5 KEVIN at one-twenty on, uh, um, Monday the ninth.
6 END OF CALL
7 END OF TAPE
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